

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ASHUTOSH KUMAR, *and all those  
similarly situated*,

Plaintiff,

– *against* –

S & A STORES INC, RONALD ADES,  
MORRIS ADES, LOUIS ADES (deceased,  
his heirs and assigns), ISAAC KAIREY,  
*and* NADEEM CHOUDHURY,

Defendants.

**OPINION & ORDER**

23-cv-8871 (ER)

RAMOS, D.J.:

On September 6, 2024, the Court issued an Opinion & Order denying the parties’ request for settlement approval without prejudice. Doc. 18. In doing so, the Court instructed the parties to do one of the following by September 27, 2024:

- Submit (1) a revised motion for settlement approval to the Court that provides sufficient information regarding Kumar's maximum potential recovery so that the Court can assess whether the settlement amount is fair and reasonable; and (2) a revised proposed settlement agreement that includes an appropriate non-disparagement provision, or removes the non-disparagement provision entirely; or
- Stipulate to dismissal of the case without prejudice, which the Court need not approve under current Second Circuit case law. *See Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 201 n.2. (2d Cir. 2015).

Doc. 18 at 4.

On January 31, 2025, the parties filed a second motion for settlement. Doc. 26. However, the revised settlement agreement still does not provide “sufficient information regarding Kumar's maximum potential recovery so that the Court can assess whether the settlement amount is fair and reasonable.” *Id.* Specifically, it does not say what Kumar’s estimated maximum possible recovery would be if he were to succeed at trial or the component parts of that estimate. *See Vasquez v. Tasty Picks II Corporation*, No. 21-cv-

8799 (ER), 2022 WL 16857074, at \*2 (S.D.N.Y. Nov. 10, 2022); *Lopez v. Nights of Cabiria, LLC*, 96 F. Supp. 3d 170, 176 (S.D.N.Y. 2015), *cited with approval in Cheeks*, 796 F.3d at 205–06 (“At minimum, the Court requires ... the bases of the estimates of plaintiffs’ maximum possible recovery....”).

Accordingly, the parties are again instructed to submit a revised motion for settlement approval setting forth specifically Kumar’s maximum possible recovery or to stipulate to dismissal of the case without prejudice by February 18, 2025.

IT IS SO ORDERED.

Dated: February 4, 2025  
New York, New York



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EDGARDO RAMOS, U.S.D.J.